

Indian Legal Landscape Navigation of Surrogacy: A Critical Analysis of the Surrogacy Regulation Act, 2021

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Abstract:

Individuals and couples seeking parenthood look at surrogacy as a boon. But Surrogacy Act, a widely accepted option in the whole world, is still a great challenge in practical terms. Ethical and social acceptability concerns are often raised when understanding and navigating parts come into the consideration of the legal aspects of surrogacy. Eligibility criteria and fundamental rights are needed to modify to achieve transparent mechanisms of fairness and inclusivity with financial implications. The Surrogacy Regulation Act, 2021, represents a significant step forward to illuminate this relatively new technological term, aiming to create a concrete framework that controls, observes and prioritizes the rights and well-being of everyone involved in the surrogacy journey.

This article takes a closer look at the key points of the Act. This article explores the Act's essential elements, particularly its shift from commercial to altruistic surrogacy and its entitlement necessities for both anticipated parents and surrogates. It also examines the creation of a regulatory body tasked with overseeing surrogacy practices and upholding ethical standards.

Although the Act strives to protect individuals from discriminated acquisition and harassment and address common ethical standard, it also raises important questions about being sensitive and unprejudiced. For example, single women and LGBTQ+ couples are presently debarred from accessing surrogacy services; this is challenging the key aspect of personal autonomy and reproductive decisions and showing discrimination.

This study, therefore, aims to discuss the advantages and disadvantages of using the new law and considers the practical challenges that intending couple or intending woman, as the case may be, may encounter in its application and certain necessary questions which remained unanswered

Furthermore, by comparing India's approach to surrogacy with international practices, this article aims to identify valuable lessons that could inform future reforms. Ultimately, this study aspires to contribute to the broader conversation about reproductive rights and ethics in surrogacy, advocating for a more inclusive and equitable framework that respects the needs of intended parents, surrogates, and society as a whole. By navigating the complexities of the Surrogacy Regulation Act, 2021, this article seeks to shed light on how India can move toward a more just and compassionate surrogacy system.

Keywords —Surrogacy, Surrogacy Regulation Act, 2021, Altruistic Surrogacy, Reproductive Rights, Legal Framework

I. INTRODUCTION

Surrogacy is a reproductive arrangement in which a woman, known as the surrogate, carries and gives birth to a child for another individual or couple, referred to as the intended parents. This

practice has gained significant traction in India, particularly as societal attitudes toward assisted reproductive technologies have evolved. Historically, surrogacy can be traced back to ancient texts like the Mahabharata, where similar concepts of childbearing through alternative means

were discussed. In contemporary society, surrogacy serves as a beacon of hope for many couples facing infertility due to medical conditions or personal circumstances. The importance of surrogacy extends beyond mere biological reproduction; it holds profound implications for various demographics. It can, in many ways, be regarded as a critical lifeline for the infertile couple, giving them the hope to have their own babies, which may not otherwise reach them. Psychological agony associated with infertility is much, and surrogacy brings such hope to such couples. In recent years, there have been considerable increases among the LGBTQ+ population that has chosen surrogacy as one of their means for family-building, especially among places that may bar them from the rights to adopt in the case of a same-sex population. And so, surrogacy has emerged as an imperative avenue for many families under the challenging circumstances of building children. The legal aspect around surrogacy in India was never clear before the enforcement of the Surrogacy Regulation Act 2021. This opened a room for rampant commercialism and exploitation in business due to which the system has been exploited because, unlike this act, any previously enforced legislation did not make the environment clear about whether one needs a fixed framework for law or guidelines from legal perspectives that should be provided to those dealing with the surrogate mothers regarding their treatment, hence creating more judicial hassle between the parent and surrogate mother. This also served many windows for financial exploitation to occur. Surrogate mothers were said to have had minimum medical care while pregnant and treated coercively because of their economic state.

Recognizing these challenges, the Indian government introduced the Surrogacy Regulation Act to establish a legal framework that prioritizes ethical practices and safeguards the rights of all parties involved. The Surrogacy Regulation Act, 2021 fundamentally alters the landscape of surrogacy in India by allowing only altruistic surrogacy while prohibiting commercial arrangements. This shift aims to eliminate exploitation within the surrogacy process but raises significant questions about inclusivity—particularly

concerning marginalized groups such as single women and LGBTQ+ individuals who are currently excluded from accessing these reproductive options. This study aims to analyze the Surrogacy Regulation Act, 2021, exploring its implications for intended parents, surrogates, and society at large. By examining the Act's provisions and their impact on various stakeholders, this research seeks to contribute to the ongoing discourse on reproductive rights and ethical considerations in surrogacy. The significance of this study lies in its potential to inform policymakers and advocates about necessary reforms that could enhance inclusivity and protect vulnerable populations within the surrogacy framework. Understanding the evolving nature of surrogacy laws in India is essential for fostering an environment where all individuals can exercise their reproductive rights without fear of exploitation or discrimination. The Surrogacy Regulation Act represents both progress and challenges in achieving this goal. By critically analyzing its provisions and implications, this study aims to shed light on how India can navigate its legal landscape towards a more equitable and just approach to surrogacy.

II. BACKGROUND

A. Historical Development of Surrogacy Laws in India

The practice of surrogacy in India has undergone significant evolution over the years, influenced by cultural beliefs, medical advancements, and changing societal norms. Unnatural forms of birth were indeed present in ancient Indian civilizations as per the references of Mahabharata and other Ancient Indian literature. Researchers found through these testimonies that non-traditional methods of birth were able to gain entry into Indian lives as time passed on, all such records were frequently concealed, which bypassed the natural laws of biological relationships and questioned conventional beliefs relevant to the sanctity of natural childbirth, motherhood, family.

Changing views on reproductive options with the coming of new medical technologies proved the late 20th century as a landmark. India

is an affordable place to have surrogacy services done with no stringent regulations on assisted reproductive technologies. To achieve parenthood many international couples were attracted to the cheap surrogacy service, it caused a proliferation of fertility clinics offering such services. So India has emerged as the most sought-after place for commercial surrogacy at the beginning of the 21st century. Our land as the surrogacy industry has shown phenomenal growth in the use of assisted reproductive technologies (ART), despite the rapid commercial expansion, The legal framework governing surrogacy remained largely undeveloped until the late 2000s.

The Indian Council of Medical Research (ICMR) issued guidelines in 2005 aimed at regulating assisted reproductive technologies; however, these guidelines lacked statutory backing and did not provide comprehensive oversight for surrogacy arrangements. As a result, commercial surrogacy continued to operate in a legal gray area, with little protection for the rights and welfare of surrogate mothers. The turning point came with the Law Commission of India's 228th report published in August 2009. This report highlighted the urgent need for legislation to regulate assisted reproductive technology clinics and outlined the rights and obligations of parties involved in surrogacy arrangements. It specifically raised concerns about the exploitation of surrogate mothers—many of whom were economically disadvantaged—and recommended a ban on commercial surrogacy due to the lack of a proper legal framework. This report served as a catalyst for discussions surrounding ethical practices in surrogacy and laid the groundwork for future legislative efforts. In subsequent years, various legislative attempts were made to address these issues. The first Surrogacy (Regulation) Bill was introduced in 2016 but lapsed after Parliament was dissolved. The government recognized that without robust regulations, vulnerable women could continue to be exploited in commercial arrangements. In 2019, another attempt was made with the introduction of the Surrogacy

(Regulation) Bill, which sought to regulate surrogacy practices while addressing ethical concerns highlighted by previous reports.

B. The Role of Commercial Surrogacy

Commercial surrogacy gained prominence in India during the early 2000s as international couples sought affordable options for assisted reproduction. The country became known as a destination for "rent-a-womb" services due to its lower costs compared to Western countries—where surrogacy can cost upwards of \$100,000—combined with a well-established medical infrastructure. However, this unregulated boom raised significant ethical concerns regarding the exploitation of surrogate mothers. Many women who acted as surrogates came from economically disadvantaged backgrounds and faced immense pressure to participate in these arrangements due to financial hardships. Reports surfaced detailing instances where surrogate mothers were subjected to poor living conditions and inadequate healthcare during their pregnancies. Furthermore, many women were coerced into becoming surrogates without fully understanding their rights or the implications of their decisions. The lack of regulatory oversight led to widespread abuses within commercial surrogacy arrangements. Surrogate mothers often received only a fraction of what intended parents paid fertility clinics—sometimes as little as \$4,000 to \$5,000—while agencies profited significantly from these transactions. Before 2002 there was not any existence of surrogacy guidelines. Since most women chose surrogacy for more in terms of financial need than free choice. Very serious concerns over the issues of informed consent and individual autonomy were raised on the existing unequal surrogacy arrangements. To protect against abuse a call for regulation was invoked for the parties involved in such commercial contracts—the surrogate mothers and the intended parents.

Cases of exploitation and abuse experienced by women when they were pregnant highlighted by

advocacy groups. These complications prompted the Indian Government to initiate stronger surrogacy regulations. The regulation of the Ministry of Home Affairs in 2015 prohibited commercial surrogacy for foreign nationals, as foreign couples were being called to account for abuse and irregularities. The bill stipulated that the surrogate mother did not need to be close to the commissioning parents, nor was it necessary for them to keep it a secret.

This was due to growing awareness that vulnerable populations would face increased marginalization in the evolving surrogacy industry without adequate legal protections and ethical guidelines. As a result, the Surrogacy Regulation Act was enacted in 2021, which entirely bans commercial surrogacy while permitting altruistic arrangements under stringent regulatory frameworks. The main goal here is to safeguard the rights of the surrogate mothers while at the same time delivering the intending parents a clean, soundly protected way through this process free from the possibility of exploitation or entanglement in complex legality.

While this shift represents progress toward ethical practices in surrogacy, it also raises important questions about inclusivity and access for marginalized groups who may still be excluded from participating in altruistic surrogacy arrangements. As India continues to grapple with its evolving legal landscape surrounding reproductive technologies, ongoing dialogue is essential to ensure that all individuals have equitable access to family-building options without fear of exploitation or discrimination. In summary, understanding the historical development of surrogacy laws in India provides crucial context for analyzing contemporary practices and regulations surrounding this complex issue. The interplay between cultural beliefs, economic factors, and legislative efforts has shaped India's approach to surrogacy over time—highlighting both challenges and opportunities for creating a more equitable framework that respects reproductive rights while The NSB is responsible for formulating

policies related to altruistic surrogacy and ensuring compliance with legal standards set forth by the Act protecting vulnerable populations from exploitation.

III. THE SURROGACY REGULATION ACT, 2021

The Surrogacy Regulation Act, 2021, represents a pivotal shift in India's approach to surrogacy, establishing a legal framework that prioritizes ethical practices while prohibiting commercial surrogacy entirely. This comprehensive legislation aims to safeguard the rights of both intended parents and surrogate mothers, ensuring that surrogacy is conducted under regulated and humane conditions.

C. Key Provisions of the Act

The Act permits only altruistic surrogacy, which allows surrogate mothers to receive compensation strictly for medical expenses incurred during pregnancy and post-delivery care. This prohibition of commercial surrogacy is a significant measure aimed at curbing exploitation and ensuring that surrogates are not treated as mere commodities in a commercial transaction. To engage in altruistic surrogacy under this Act, intended parents must meet specific eligibility criteria. They must be legally married Indian citizens who have been married for at least five years. Additionally, the female partner must be between the ages of 23 and 50 years, while the male partner must be between 26 and 55 years. Importantly, couples must not have any surviving biological children or adopted children. This requirement aims to ensure that surrogacy is considered only after other avenues of parenthood have been explored. The Act also mandates that intended parents obtain a certificate of essentiality from a District Medical Board, which certifies their infertility or medical condition necessitating surrogacy. This process is designed to prevent misuse of surrogacy arrangements by those who may not genuinely require them. Furthermore, the surrogate mother must be a close relative of the intended parents and should have already given

birth to at least one child of her own. She must also be between 25 and 35 years old and can only act as a surrogate once in her lifetime. These provisions reflect an attempt to create a more ethical framework for surrogacy in India, focusing on the well-being of all parties involved while addressing concerns about exploitation.

D. Regulatory Framework

One of the key features of the Surrogacy Regulation Act is the establishment of the National Surrogacy Board (NSB), which is tasked with overseeing surrogacy practices across India. The policies will be framed strictly, concerning altruistic surrogacy within the contours of the legal framework enunciated by the Act. Issues at the state level will then be dealt with by the State Surrogacy Boards and taken further towards regulation.

E. Responsibilities of the National Surrogacy Board (NSB)

The NSB regulates the fertility clinics to find out whether they adhere to recommended medical procedures and ethical requirements that must be met before surrogacy services are initiated. All the fertility clinics are compelled to register within a particular period after the Act came into effect. Registration keeps the industry accountable and shows that clinics operate with the law in mind.

The Act further provides that all registered clinics shall maintain a comprehensive record of their operations, information concerning surrogate mothers and intended parents in any surrogacy arrangement. The provision is made to avoid malpractice and ensure the rights of the parties involved in surrogacy are protected.

This legislation establishes the rule of law for governance designed to promote an ethics-imbued society where one finds no form of exploitation. The development of a regulatory body on all governmental levels is important, thereby forming a starting point on ensuring that such activities take place ethically with zero exploitation. In general, this transparency acts to inhibit malpractice as it respects the rights of

everybody taking part in any way regarding the surrogacy arrangement.

The Surrogacy Regulation Act, through its regulatory framework, aspires to bring about an environment where the ethical practices are promoted with minimum scope for exploitation. By instituting oversight bodies at the national and state levels, the legislation attempts to ensure responsible conduct in surrogacy arrangements while respecting the rights and dignity of all participants.

F. Legal Rights and Protections

The Surrogacy Regulation Act confers several rights upon both surrogate mothers and intended parents, thereby enhancing legal protections within this sensitive area of reproductive health. For instance, it mandates that surrogate mothers receive comprehensive health insurance covering postpartum complications for up to sixteen months after delivery. This provision acknowledges the physical risks associated with pregnancy and childbirth, ensuring that surrogate mothers have access to necessary medical care even after their contractual obligations have ended. Additionally, the Act prohibits any form of abandonment or exploitation regarding children born through surrogacy arrangements. Once a child is born via altruistic surrogacy, they are deemed to be the biological child of the intended parents for all intents and purposes. This legal recognition is crucial as it establishes parental rights immediately upon birth, thereby simplifying custody issues that may arise later. Furthermore, the law criminalizes advertising for commercial surrogacy arrangements and imposes severe penalties—including imprisonment up to ten years—for violations related to exploitation or abandonment. These stringent measures reflect a commitment to eradicating commercial practices that exploit vulnerable women while reinforcing ethical standards within altruistic arrangements. The penalties outlined in the Act serve as a deterrent against potential abuses within the surrogacy industry. By imposing significant fines and prison sentences for those found guilty

of exploiting surrogate mothers or engaging in commercial practices, the legislation seeks to foster an environment where ethical considerations take precedence over profit motives.

G. Implications for Stakeholders

The Surrogacy Regulation Act has far-reaching implications for various stakeholders involved in surrogacy arrangements:

- *Intended Parents:* For couples seeking to become parents through surrogacy, this legislation provides clarity regarding eligibility criteria and legal rights concerning their children born via surrogacy. The requirement for certificates of infertility ensures that only those genuinely needing assistance can pursue this option.
- *Surrogate Mothers:* The protections afforded to surrogate mothers under this Act mark a significant improvement over previous unregulated practice. With mandated health insurance coverage and restrictions on exploitation, surrogate mothers are better positioned to make informed decisions about their participation in these arrangements.
- *Fertility Clinics:* Clinics offering fertility treatments will need to navigate new regulatory requirements established by the NSB and SSBs. Compliance with these regulations will be essential for maintaining their licenses to operate legally within this framework.
- *Legal System:* The establishment of clear legal definitions regarding parental rights and responsibilities simplifies potential disputes arising from surrogacy arrangements. Courts will have clearer guidelines under which they can adjudicate cases involving custody or parental rights concerning children born through surrogacy.

H. Challenges Ahead

While the Surrogacy Regulation Act represents a significant step forward in regulating surrogacy practices in India, several challenges remain:

- *Implementation Issues:* The successful implementation of this legislation hinges on the timely establishment of regulatory bodies at both national and state levels. Delays in forming these boards could lead to continued ambiguity surrounding operational standards for fertility clinics.
- *Inclusivity Concerns:* Although altruistic surrogacy is now permitted under strict regulations, certain groups—such as single individuals or LGBTQ+ couples—remain excluded from accessing these reproductive options legally. Addressing these inclusivity issues will be critical for ensuring equitable access to family-building options for all individuals.
- *Awareness Campaigns:* There is a need for widespread awareness campaigns aimed at educating both intended parents and surrogate mothers about their rights under this new legal framework. Ensuring that all parties understand their rights will help prevent potential abuses or misunderstandings during surrogacy arrangements.
- *Monitoring Compliance:* Effective monitoring mechanisms must be established to ensure compliance with regulations set forth by the NSB and SSBs. Regular audits of fertility clinics will be necessary to identify any potential violations or unethical practices before they escalate into larger issues.

The Surrogacy Regulation Act, 2021 marks a transformative moment in India's approach to reproductive technologies by establishing a legal framework that prioritizes ethical practices while prohibiting commercial exploitation entirely. By allowing only altruistic arrangements under strict regulations, this legislation aims to protect vulnerable populations while facilitating family-

building options for those in need. As India navigates this new landscape surrounding surrogacy laws, ongoing dialogue among stakeholders—intended parents, surrogate mothers, healthcare providers, policymakers—will be essential for addressing challenges ahead while fostering an environment where reproductive rights are respected without compromising ethical standards within this sensitive area of healthcare. In summary, while significant strides have been made through this legislation toward creating an equitable framework for altruistic surrogacy in India—much work remains ahead in ensuring its successful implementation across diverse contexts throughout the country.

IV. CRITICAL ANALYSIS OF THE ACT

The Surrogacy Regulation Act, 2021, marks a significant legislative effort to regulate surrogacy practices in India, aiming to establish an ethical framework for altruistic surrogacy while prohibiting commercial practices. However, despite its well-intentioned provisions, the Act raises several critical issues that warrant thorough examination. This analysis will explore the inclusivity issues inherent in the Act, ethical considerations surrounding autonomy and reproductive rights, and practical challenges related to its implementation.

I. Inclusivity Issues

One of the most pressing concerns regarding the Surrogacy Regulation Act is its lack of inclusivity. The eligibility criteria for intended parents explicitly exclude single women and LGBTQ+ couples from accessing surrogacy services. This exclusion reflects broader societal biases that limit reproductive rights based on marital status or sexual orientation, effectively reinforcing traditional family structures while marginalizing those who do not conform to these norms.

Exclusion of Single Women: The prohibition against single women seeking surrogacy services is particularly troubling. Many women may choose to pursue motherhood independently for

various reasons, including personal choice, health considerations, or the desire to raise a child in a stable environment without a partner. By denying single women access to surrogacy, the Act perpetuates the notion that motherhood must occur within the confines of marriage, thereby undermining women's autonomy over their reproductive choices. Legal precedent supports the right of individuals to make personal decisions regarding parenthood. The Indian judiciary has recognized the importance of individual autonomy in matters of reproduction; however, this legislation contradicts those principles by imposing restrictive eligibility criteria that exclude capable individuals from pursuing parenthood through surrogacy.

Exclusion of LGBTQ+ Couples: Similarly, the exclusion of LGBTQ+ couples from accessing surrogacy services is a glaring omission in the Act. In a country where same-sex relationships are still stigmatized and often criminalized, this legislation further marginalizes LGBTQ+ individuals by denying them equal access to reproductive technologies. The inability to pursue surrogacy limits their options for family-building and reinforces discriminatory attitudes toward non-traditional family structures. The Act's failure to recognize LGBTQ+ couples as potential parents reflects deep-seated societal biases that prioritize heterosexual relationships over others. This exclusion not only violates principles of equality enshrined in the Indian Constitution but also perpetuates a narrative that devalues diverse family forms. Advocates argue that inclusive policies are essential for promoting social justice and ensuring that all individuals have equal opportunities to pursue parenthood.

Broader Implications: The implications of these exclusions extend beyond individual rights; they contribute to a broader societal narrative that stigmatizes non-traditional family structures. By failing to address the needs of single women and LGBTQ+ couples, the Surrogacy Regulation Act reinforces outdated notions of family and parenthood while neglecting the diverse realities

faced by many individuals in contemporary society.

J. Ethical Considerations

The ethical implications surrounding autonomy and reproductive rights are central to discussions about the Surrogacy Regulation Act's provisions. While altruistic motives behind surrogacy arrangements are commendable, critics argue that they may inadvertently undermine women's autonomy by restricting their ability to make choices about their bodies and reproductive futures.

Autonomy and Informed Consent: One of the fundamental ethical principles in reproductive health is respect for individual autonomy—the right of individuals to make informed decisions about their own bodies and reproductive choices. In the context of surrogacy, this principle becomes particularly complex when considering the motivations behind a woman's decision to become a surrogate. Many surrogate mothers may enter into agreements out of economic necessity rather than genuine altruism. While the Act aims to promote altruistic surrogacy by allowing compensation only for medical expenses, it fails to address the underlying socio-economic factors that drive women to become surrogates in the first place. Critics argue that without adequate support systems and protections in place, surrogate mothers may not be fully equipped to provide informed consent regarding their participation in these arrangements.

Coercion vs. Altruism: The requirement that surrogate mothers be "close relatives" of intended parents raises additional ethical concerns regarding coercion versus altruism. Proponents of this provision believe that it encourages trust and family bonds in surrogacy agreements; however, it can also lead to circumstances where women are forced into surrogacy due to family or social obligations. This raises a concern with the concept of informed consent because surrogate mothers may feel obligated to participate based on a sense of duty or obligation rather than personal desire. It goes against the ethical values that altruistic surrogacy is

meant to uphold, especially the question of whether such terms can even ensure autonomy at all.

Psychological Effects: The process of surrogacy has several psychological implications, which ought to be addressed. What the surrogate mother has carried around in her womb for nearly nine months will have taken a toll, and separation from it at delivery might create attachment feelings and post-delivery loss that it is hard to cope with. The Act does little to address such psychological considerations and after delivery support for the surrogate mothers.

This, therefore, needs to be taken as an all-rounded approach for acknowledging the fact that it encompasses not just the physical attributes of surrogacy but also the emotional and psychological aspects. Thus, the surrogate mother would need adequate mental health support in the entire experience towards making it an ethical practice.

K. Practical Challenges

Despite its well-intentioned provisions, practical challenges persist regarding the implementation of the Surrogacy Regulation Act. Fertility clinics may struggle with compliance due to varying interpretations of regulations across states or regions within India. Additionally, intended parents may face hurdles related to obtaining necessary certifications before proceeding with surrogacy arrangements.

Compliance Issues: The establishment of regulatory bodies such as the National Surrogacy Board (NSB) aims to create oversight mechanisms for fertility clinics; however, effective implementation remains a challenge. Variability in state-level regulations can lead to confusion among clinics regarding compliance requirements. Some clinics may interpret regulations differently based on local contexts or cultural attitudes toward surrogacy. This lack of uniformity can result in disparities in service quality and ethical standards across different regions, potentially compromising the rights and welfare of surrogate mothers and intended parents

alike. Without clear guidelines and consistent enforcement mechanisms, there is a risk that unethical practices may continue unchecked within certain clinics.

Certification Challenges: Intended parents face additional hurdles related to obtaining necessary certifications before proceeding with surrogacy arrangements. The requirement for a certificate from a District Medical Board certifying infertility can be cumbersome and time-consuming—potentially delaying access to needed services for couples eager to start families. Furthermore, bureaucratic inefficiencies within government institutions may hinder timely processing of these certifications—leading some couples to seek alternative routes outside legal frameworks due to frustration with delays or perceived barriers imposed by regulatory requirements.

Awareness and Education: Another critical challenge lies in raising awareness about rights under this new legal framework among both intended parents and surrogate mothers. Many individuals may lack knowledge about their entitlements or available support systems—leading them vulnerable during negotiations surrounding surrogacy agreements. Educational initiatives aimed at informing all stakeholders about their rights under this legislation are essential for preventing potential abuses or misunderstandings during surrogacy arrangements. Empowering both intended parents and surrogate mothers with knowledge will contribute significantly towards fostering an environment where ethical practices prevail.

While the Surrogacy Regulation Act represents an important step forward in regulating surrogacy practices in India—addressing many ethical concerns associated with commercial arrangements—it also raises significant issues related to inclusivity, autonomy, and practical implementation challenges. The exclusions faced by single women and LGBTQ+ couples highlight broader societal biases limiting reproductive rights based on marital status or sexual orientation—reinforcing traditional notions surrounding family

structures while marginalizing those who do not conform. Furthermore, ethical considerations surrounding informed consent underscore the need for comprehensive support systems addressing both physical health needs as well as emotional well-being throughout all stages of surrogacy arrangements. Practical challenges related compliance issues among fertility clinics and bureaucratic hurdles faced by intended parents necessitate ongoing dialogue among stakeholders—ensuring equitable access while promoting ethical standards within this sensitive area of healthcare. As India navigates its evolving legal landscape surrounding reproductive technologies—the need for inclusive policies prioritizing fairness remains paramount—ultimately fostering an environment where all individuals can exercise their reproductive rights without fear or discrimination while ensuring protections against exploitation prevail throughout every aspect involved within this complex process known as surrogacy.

V. FUTURE DIRECTIONS

The Surrogacy Regulation Act, 2021, represents a significant step toward establishing a legal framework for altruistic surrogacy in India. However, while the Act aims to create an ethical environment for surrogacy practices, it also highlights critical gaps, particularly concerning inclusivity. To enhance the framework for altruistic surrogacy, it is essential to consider legal reforms that expand eligibility criteria beyond heterosexual married couples. This includes provisions that support single individuals and LGBTQ+ families seeking reproductive options. Such reforms could foster a more equitable landscape where diverse family structures are recognized and supported by law, ultimately reflecting changing societal norms around family formation in contemporary India.

Expanding Eligibility Criteria: The current eligibility criteria under the Surrogacy Regulation Act limit access to surrogacy services primarily to heterosexual married couples. The exclusion of single people and same-sex couples from accessing surrogacy raises several issues in terms of equality

and reproductive rights. There are important reasons to expand eligibility criteria to include them.

Recognizing Diverse Family Structures: Family structures have dramatically changed in today's world. People prefer parenthood outside the traditional marriage framework either due to choice, situation, or to create more inclusive family settings. Under that provision, the law shall consider the surrogacy possibility for single individuals or families of LGBTQ+ characters as well. This therefore reflects the modern times definition of family and how it has been defined even about parenthood. It not only protects their rights but also gives social acceptance and is a strong testimony to the fact that in all circumstances, everyone including persons in marriage or those considered sexually oriented, has his or her opportunity in parenting. A shift of such policy would work in dismantling these social stigmas upon non-traditional families as well as open avenues towards greater acceptance of diversity of family form.

Rights to Procreate: Reproductive rights also include the right to have access to all sorts of reproductive technologies. Deprivation of the right to participate in surrogacy denies rights in reproduction, including making the very decision on whether to exercise the right of parenthood. This can further strengthen the concept of universal reproductive rights irrespective of someone being single, married or their sexual preference. More importantly, legal surrogacy motherhood services fill in some respect the historical balance of discrimination against the exploited communities. Allowing access to surrogacy to unmarried people and other partners in the LGBTQ+ world is a giant step to eradicating inequality that exists in service provision toward health issues related to activity reproduction.

Amending the Constitution towards Inclusion: Legal reforms must be set in place effectively to realize changes

Amendment Surrogacy Regulation Act: The Surrogacy Regulation Act should be rewritten to

explicitly state that it provides provisions that allow one lone individual and same-sexed couples to engage the use of surrogates for their reproductive needs. An example of this kind of amendment would establish special guidelines on eligibility for either form of applicant group without contravening the ethical intent behind regulations and laws. Single parents can be allowed on their conditions, such as suitability in terms of sound economy and child-care setting; others can be permitted when appropriate conditions are made toward them, especially if prioritized on the protection of child outcomes.

This may then lead to changes in the law so that the laws governing the intending parents will allow, then facilitation of legal framework that favour access of surrogacy services for the marginalized group. It would very well be in line with an educational awareness campaign addressed at informing intended parents of their legal rights as well as the general resources through which they would be guided toward accessing the service. The latter could then be complemented with legal aid programs that guarantee an understanding among diverse persons of their surrogacy rights and responsibilities. It would, therefore encourage supporting and educating surrogacy for all those seeking to become parents.

M. Societal Implications of Inclusive Surrogacy Policies

Implementing inclusive surrogacy policies would have far-reaching societal implications beyond individual rights:

Promoting Social Acceptance: Recognizing diverse family structures through inclusive surrogacy policies can promote social acceptance of non-traditional families. As society becomes more familiar with varying family dynamics—such as single-parent households or families headed by same-sex couples—stigma surrounding these arrangements may diminish over time. This shift in perception can lead to greater understanding and support for all families, fostering an environment where diversity is celebrated rather than marginalized. Ultimately, this cultural change can

contribute positively to children's development by providing them with inclusive role models and environments that reflect societal diversity.

Enhancing Child Welfare: Inclusive surrogacy policies prioritize child welfare by ensuring that all children born through surrogacy arrangements are raised in loving and supportive environments. Research has shown that children thrive in diverse family structures when provided with stable relationships and nurturing environments. By allowing single individuals and LGBTQ+ couples access to surrogacy services, the law acknowledges that love and support are not confined to traditional family units. This recognition can lead to improved outcomes for children born through surrogacy arrangements—regardless of their parents' marital status or sexual orientation.

Enhancing inclusivity within India's framework for altruistic surrogacy requires legal reforms that expand eligibility criteria beyond heterosexual married couples. By recognizing single individuals and LGBTQ+ families as eligible for surrogacy services, India can foster a more equitable landscape where diverse family structures are acknowledged and supported by law. Such reforms not only reflect changing societal norms around family formation but also affirm fundamental reproductive rights for all individuals. As India navigates its evolving legal landscape surrounding reproductive technologies, embracing inclusivity will be essential for promoting social acceptance, enhancing child welfare, and ensuring that every individual could pursue their dreams of parenthood without discrimination or stigma. Ultimately, inclusive policies regarding surrogacy represent a vital step toward creating a just society where all families—regardless of their composition—are valued equally under the law. By prioritizing inclusivity in surrogacy legislation, India can pave the way for a future where diverse family structures thrive in harmony with societal values rooted in equality and respect for individual rights.

VI. CONCLUSIONS

The Surrogacy Regulation Act, 2021, signifies a crucial advancement in establishing ethical standards within India's surrogacy landscape. By

prohibiting commercial surrogacy and allowing only altruistic arrangements, the Act aims to protect vulnerable populations and ensure that surrogacy practices are conducted ethically. However, it also highlights significant gaps, particularly concerning inclusivity, that require urgent attention from policymakers and advocates.

One of the primary concerns is the exclusion of single individuals and LGBTQ+ couples from accessing surrogacy services. This limitation reflects broader societal biases that restrict reproductive rights based on marital status or sexual orientation. In a rapidly evolving society where diverse family structures are increasingly recognized, it is imperative that legal frameworks adapt accordingly. Expanding eligibility criteria to include these marginalized groups would not only promote equality but also align with contemporary understandings of family and parenthood.

A balanced approach is essential—one that safeguards vulnerable populations while promoting reproductive rights across diverse demographics. Ensuring that all individuals have access to family-building options without fear of exploitation or discrimination is critical for fostering an inclusive society. Legal reforms should focus on creating a more equitable landscape for surrogacy, recognizing the rights of all individuals to pursue parenthood in ways that reflect their unique circumstances and identities.

Moreover, the ethical implications surrounding autonomy and informed consent must be carefully considered. While altruistic motives are commendable, they should not come at the expense of a woman's right to make informed choices about her body and reproductive future. All provisions of the Act shall be made for proper care of surrogate mothers from her mental health to safety protection against exploitation. It also needs to accommodate practical things involved with its implementation. Its practical challenges are it encounters different interpretations of the law between states, which are becoming hurdles for fertility clinics, and intended parents encounter bureaucratic hurdles in getting all required clearances before entering a surrogacy arrangement.

These processes must be streamlined and clear guidelines laid down so that parties may successfully navigate the surrogacy landscape. Though the Surrogacy Regulation Act marks a major step forward in ethical surrogacy practices in India, it is very important to recognize and rectify its flaws. This would help India work toward the development of an ideal framework that does not only safeguard vulnerable populations but also brings forth the diverse realities of modern life emphasizing issues of inclusivity, reproductive rights, and ethical considerations on surrogacy arrangement.

Indeed, in a society that is changing constantly, laws and frameworks have to catch up; each person should have his right to pursue his parenting ambition without the fear of discrimination and the threat of exploitation. As society continues to evolve, so too must its legal frameworks—ensuring that every individual has the opportunity to pursue their dreams of parenthood without discrimination or fear of exploitation.

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